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TRA DOCKET ROOM
September 23, 2004

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VIA HAND DELIVERY

Hon. Pat Miller, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re. *BellSouth's Motion For The Establishment Of A New Performance Assurance Plan*
Docket 04-00150

Dear Chairman Miller:

Enclosed are the original and fourteen copies of BellSouth's *Motion to Establish Procedural Schedule*. Copies of the enclosed are being provided to counsel of record.

Cordially,



Joelle Phillips

JJP:ch

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *BellSouth's Motion For The Establishment Of A New Performance Assurance Plan*

Docket 04-00150

MOTION TO ESTABLISH PROCEDURAL SCHEDULE

BellSouth Telecommunications, Inc. ("BellSouth") files this *Motion to Establish Procedural Schedule* and respectfully shows the Tennessee Regulatory Authority ("Authority" or "TRA") as follows:

BellSouth filed its *Motion to Establish a New Performance Assurance Plan* on May 13, 2004. At the time of BellSouth's filing, the Competitive Carriers of the South, Inc. ("CompSouth" or "the CLECs") urged the Authority to hold the matter in abeyance because of the time required to review BellSouth's Plan. The CLECs also urged the Authority to first conduct a workshop on wholesale performance issues before addressing BellSouth's motion for a new plan.

On Tuesday, September 14, 2004, the TRA held its workshop on BellSouth's wholesale performance. The workshop was attended by numerous parties and provided for a full day interactive session discussing a variety of issues relevant to BellSouth's wholesale performance and the current performance assurance plan in Tennessee. At the conclusion of the workshop, the attending CLECs committed to provide BellSouth with letters addressing the specifics of wholesale performance issues the CLECs believed were significant. As discussed during the workshop, BellSouth will respond to those letters and attempt to work in that process while simultaneously

continuing other existing processes for addressing wholesale performance issues. As discussed during the workshop, BellSouth also intended to move forward with its efforts to have the TRA consider its motion to establish a new Tennessee plan in the above-styled docket. BellSouth is prepared to proceed in this docket to present its case regarding its proposed plan and to make its case that the large penalties it currently pays under the current plan are not rationally related to its performance. BellSouth will demonstrate that the proposed plan meets all of the FCC's defined characteristics of an effective performance assurance plan. These characteristics are:

- Potential liability that provides a meaningful and significant incentive to comply with the designated performance standards
- Clearly-articulated, pre-determined measures and standards, which encompass a comprehensive range of carrier-to-carrier performance
- A reasonable structure that is designed to detect and sanction poor performance when it occurs
- A self-executing mechanism that does not leave the door open unreasonably to litigation and appeal
- Reasonable assurances that the reported data is accurate.¹

BellSouth urges the Authority to establish a procedural schedule consistent with the proposed procedural schedule attached as Exhibit A, which would provide for a hearing on the merits on this matter before the end of this calendar year. Given the significant participation in the wholesale performance workshop, as well as the substantial participation in other states in performance plan-related proceedings, BellSouth respectfully urges that CLECs have had sufficient time (more than four

¹ *In the Matter of Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Authorization To Provide In-Region, InterLATA Services in Florida and Tennessee*, WC-Docket No. 02-307, Memorandum Opinion and Order, ¶ 169 (2002), citing prior FCC Orders

months) to consider BellSouth's proposed plan and to evaluate performance issues, such that these parties are well able to begin the process of propounding discovery and preparing testimony in order to address BellSouth's proposal.

There are many avenues available to parties with individual or unique concerns about BellSouth's performance to address those concerns. Specifically, CLECs may raise issues in the context of the dispute resolution processes contained in their interconnection agreements, through negotiations, or even by using enforcement actions when they believe that BellSouth is not living up to its obligations under existing interconnection agreements. Similarly, parties may address issues through arbitrations as they negotiate for new interconnection agreements. Parties are always free to raise issues with the TRA or the FCC or, in appropriate instances, in courts of competent jurisdiction. In addition, BellSouth's interconnection contracts all provide for contract dispute resolution processes, and these processes are ongoing. BellSouth does not suggest that any of these processes should stop while the review of the performance plan it has proposed proceeds. Similarly, however, BellSouth's proposal should not be held in abeyance in order to allow other processes to proceed, particularly where CLECs have not taken action to pursue such other avenues.

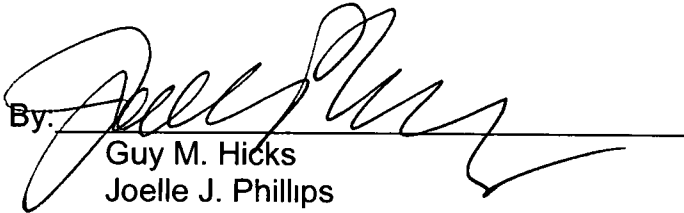
BellSouth has abided by its agreement to operate under the Florida performance assurance plan and is entitled, as all parties agreed, to seek a new plan as set forth in the parties' 271 *Settlement Agreement* in Tennessee. The FCC has also recognized that the development and implementation of performance measures and

appropriate remedies is an evolutionary process that *requires change to both measures and remedies over time.*²

For all the foregoing reasons, BellSouth respectfully urges the TRA to adopt the attached procedural schedule and to appoint a prehearing officer to prepare this matter for a hearing by the Directors. By taking this step, the TRA will simply be allowing BellSouth to pursue a new plan – just as all parties agreed in the Tennessee 271 settlement.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

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² In the Matter of Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Authorization To Provide In-Region, InterLATA Services in Florida and Tennessee, WC-Docket No 02-307, FCC 02-331, Memorandum Opinion and Order, ¶ 170 (2002)

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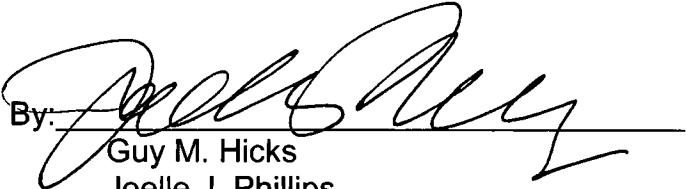
BELLSOUTH'S PROPOSED PROCEDURAL SCHEDULE FOR SQM/SEEMS

BellSouth Telecommunications, Inc. ("BellSouth") files this *Proposed Procedural Schedule for SQM/SEEMs*.

October 1, 2004	First Round Discovery Requests Served
October 1, 2004	Protective Order Filed with Hearing Officer
October 18, 2004	Responses to First Round of Discovery Requests served
October 25, 2004	Second Round of Discovery Requests Served; Motion to Compel Responses to First Round of Discovery (if necessary)
November 8, 2004	Responses to Second Round of Discovery Requests Served
November 15, 2004	Supplemental Discovery Responses required to be provided pursuant to any order granting motion to compel (if applicable)
November 22, 2004	Direct Testimony (all parties)
December 6, 2004	Rebuttal Testimony (all parties)
Week of December 13, 2004	One-day Hearing before the Panel
December 29, 2004	Post-Hearing Briefs

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

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CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2004, a copy of the foregoing document was served on the following, via hand delivery, facsimile, overnight, electronic mail or US Mail, addressed as follows:

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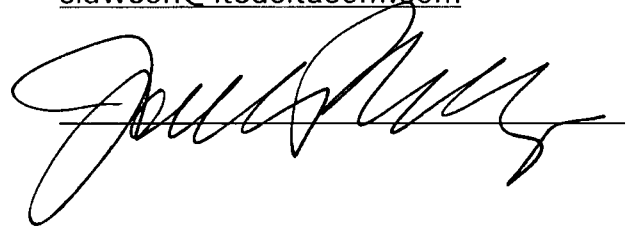
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A handwritten signature in black ink, appearing to read "Russell Perkins", is written over a horizontal line.